

CRM-M-43248-2023

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43248-2023

Date of decision: 05.09.2023

Vikas

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Aditya Sanghi, Advocate,
for the petitioner.

Ms. Ankita Ahuja, AAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

1. Through this 4th petition, the petitioner seeks regular bail in case FIR No.135 dated 18.07.2020, registered at Police Station Jhojhu Kalan, District Charkhi Dadri, under Sections 20, 20(b) and 27-A NDPS Act.

2. As per the prosecution, recovery of 6.012 kg. of '*Charas*', wrapped in a polythene was effected under conductor seat of the car occupied by the petitioner and the co-accused.

3. Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that though extent of contraband allegedly recovered in the present case, falls under commercial quantity, yet the fact remains that the petitioner has been in custody for the last more than 03 years and 01 month and that out of 17 prosecution witnesses, as many as 05 witnesses are yet to be examined. There is no other case registered or pending against the petitioner, at least of a similar

CRM-M-43248-2023

nature. In support of his contentions, learned counsel relies upon the order dated 25.01.2023 passed by the Hon'ble Supreme Court in Special Leave to Appeal (Crl.) No(s).6690/2022, titled as 'Dheeraj Kumar Shukla Vs. State of Uttar Pradesh'.

4. On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that recovery of contraband effected in the present case, falls under commercial quantity and that Section 37 NDPS Act bars the grant of bail to the accused in case of commercial quantity.

5. I have heard the learned counsel for the parties.

6. Indisputably, extent of contraband recovered in the present case, falls under commercial quantity, but the fact remains that the petitioner has been in custody for the last 03 years, 01 month and 08 days. As many as 05 prosecution witnesses are yet to be examined. Trial is unlikely to conclude any time soon. There is no other case registered or pending against the petitioner, at least of a similar nature.

7. Moreover, the Hon'ble Supreme Court in 'Dheeraj Kumar Shukla's case (supra)' has held as under:

“3. It appears that some of the occupants of the 'Honda City' Car including Praveen Maurya @ Puneet Maurya have since been released on regular bail. It is true that the quantity recovered from the petitioner is commercial in nature and the provisions of Section 37 of the Act may ordinarily be attracted. However, in the absence of criminal antecedents and the fact that the petitioner is in custody for the last two and a half years, we are satisfied that the conditions of Section 37 of the

CRM-M-43248-2023

Act can be dispensed with at this stage, more so when the trial is yet to commence though the charges have been framed.

4. For the reasons stated above but without expressing any views on the merits of the case, the petitioner is directed to be released on bail subject to his furnishing bail bonds to the satisfaction of the Trial Court.

5. It is made clear that in addition to the conditions that may be imposed by the Trial Court, the petitioner shall be required to appear before the Trial Court on every date of hearing. In case the petitioner is found to be involved in future in any other similar case, the respondent – State shall be at liberty to seek cancellation of bail granted to him by this Court.

6. The Special Leave Petition stands disposed in the above terms.....'.

8. In view of the above, this Court finds that no useful purpose would be served by keeping the petitioner behind the bars. Without commenting anything on the merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

05.09.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No